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CASE PI/5-20835B

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March 7, 2003
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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

*Bel
3-18-03*

IN RE APPLICATION OF

Art Unit: 1616

SENN ET AL.

Examiner: Pryor, Alton

APPLICATION NO: 09/716,656

FILED: NOVEMBER 20, 2000

FOR: PESTICIDAL COMPOSITIONS

Assistant Commissioner for Patents
Washington, D.C. 20231

REQUEST FOR RECONSIDERATION

Sir:

This paper is in response to the Office Action dated October 11, 2002 rejecting claims 23-32 of the above-referenced application. Reconsideration of the allowability of claims 23-32 is respectfully requested in view of the following arguments.

The Examiner's statement, that "Colliot teaches an insecticide composition comprising fipronil." is clearly totally erroneous and is strongly rebutted for the reasons detailed hereinafter. In reality, Colliot, cited by the Examiner, teaches combinations of a **fungicide** having an azole group with an insecticide carrying a specific functional group defined in a certain way. This means, that the presence of the said fungicide in the combinations taught by Colliot is absolutely compulsory.

The present invention, however, deals with mixtures of two or more than two insecticides. Insecticides and fungicides are two completely different classes of active substances used in agriculture in order to combat two plant damaging pest complexes, which are also completely

different from each other. Insecticides are used to control insect pests, whereas fungicides aim at combatting plant diseases. There is no hint whatsoever in Colliot to any mixture of two or more than two insecticides. Thus, Colliot provides neither any motivation nor any suggestion nor any teaching to prepare insecticidal mixtures at all. Specifically, in Colliot there is no motivation, suggestion or teaching of the specific insecticidal mixtures according to the present invention.


Moriie and Matsuo, both also cited by the Examiner, teach insecticides, which contain as active ingredient, one insecticidally active compound. There is not the slightest hint, neither in Moriie nor in Matsuo, to any mixture of two or more than two insecticides. Thus, neither Moriie nor Matsuo provide any motivation or any suggestion or any teaching to prepare insecticidal mixtures at all. Specifically, neither in Moriie nor in Matsuo there is any motivation, suggestion or teaching of the specific insecticidal mixtures according to the present invention.

Since neither Colliot on the one hand nor Moriie nor Matsuo on the other hand provide, alone or in combination with one another, any motivation or any suggestion or any teaching to prepare insecticidal mixtures at all, it is clear that someone skilled in the art could by no means find even the smallest motivation in these references, alone or in combination with one another, pointing or even leading to insecticidal mixtures at all or even to the specific insecticidal mixtures according to the present invention. Thus, the insecticidal mixtures of the present invention must be rated as clearly absolutely unobvious in light of the prior art references cited by the Examiner. The insecticidal mixtures of the present invention are, therefore, clearly patentable.

Reconsideration and early issuance of a Notice of Allowance is respectfully requested.

Respectfully submitted,

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Date: 3-7-03